



Commonwealth
of Massachusetts

OCPF Online
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Office of Campaign and Political Finance
One Ashburton Place, Room 411
Boston, MA 02108

Advisory Opinion

November 20, 2000
AO-00-19

Representative Scott P. Brown
844 Franklin Street, #8
Wrentham, MA 02093

Re: Endorsements by Board of Selectmen

Dear Representative Brown:

This letter is in response to your request to OCPF Deputy Director Brad Balzer for an opinion regarding endorsements of candidates by a Board of Selectmen.

Question: May a Board of Selectmen endorse a political candidate by taking a vote at a board meeting and then may the Board notify the candidate of the endorsement in the ordinary course?

Answer: Yes. The campaign finance law does not prohibit such endorsements. We suggest, however, that you contact the Ethics Commission to ensure that these activities comply with the state conflict of interest law.

Discussion:

In Anderson v. City of Boston, 376 Mass. 178, 187, 380 N.E.2d 628 (1978), appeal dismissed, 430 U.S. 1060 (1979), the court concluded that “the Legislature may decide, as it has, that fairness in

Board of Selectmen may endorse a candidate without thereby violating the campaign finance law, and may, in the ordinary course of business, issue a letter to the candidate announcing its endorsement.

Anderson does not restrict or dictate what an official body may or may not discuss or vote on in the course of a meeting, such as an endorsement of a candidate or any other item on a ballot, including an override or debt exclusion. Anderson may, however, restrict the form that any notification of such a vote may take. For example, using public funds to mail copies of a letter to all town residents, news media or others would appear to be inconsistent with the campaign finance law.

Nothing in your question indicates that public funds would be used to distribute news of the endorsement. We assume that it is customary for the Board to notify individuals of decisions made by the Board that concern such individuals. Sending one letter, in the ordinary course, to inform a candidate that the Board has decided to endorse the candidate would not involve the use of public funds contemplated by the court in Anderson.

We also assume that the letter notifying the candidate of the endorsement would contain the town seal. This office has advised that a state, county or municipal seal is a governmental resource even if reproduced at private expense and that “even the occasional, minor use of governmental resources for a political purpose is inconsistent with state law and should be avoided.” See IB-91-01 and IB-92-02. The office’s advice should not be interpreted, however, to suggest that the campaign finance law might prohibit the use of official stationery to notify the candidate of an endorsement by the Board of Selectmen. Such an interpretation would be overly restrictive since the endorsement may, as noted above, also be viewed as addressing a matter of public policy. Therefore, the use of a state, county or municipal seal on the letter would not be inconsistent with the campaign finance law. To avoid the appearance of impropriety, however, reproduction of such a letter containing the municipal seal, in any political ad or flyer, should be avoided.

In conclusion, the activities of the Board of Selectmen described in your letter do not raise issues under the campaign finance law. We have not addressed whether these activities by a Board of Selectmen raise issues under the conflict of interest law, M.G.L. c. 268A, which is enforced by the State Ethics Commission. See Commission Advisory No. 4 and Conflict of Interest Opinion EC-COI-92-5. Therefore, we suggest that a Board of Selectmen contact the Ethics Commission at 727-0060 before endorsing a candidate.

This opinion is issued solely within the context of the M.G.L. c. 55, the Massachusetts campaign finance law, and is provided on the basis of representations in your letter and in your conversations with OCPF staff. Please contact us if you have further questions.